

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH JOHN ETCHEVERRY,

Petitioner,

vs.

JEANNE WOODFORD,

Respondent.

1:05-CV-00454-OWW-DLB-HC
Appeal #06-17398

ORDER ACKNOWLEDGING PLAINTIFF'S
LEAVE TO PROCEED IN FORMA PAUPERIS
ON APPEAL

ORDER VACATING ORDER
OF JANUARY 11, 2007
(Doc. 27)

ORDER DIRECTING CLERK TO SERVE
COPY OF THIS ORDER ON THE COURT
OF APPEALS

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 15, 2006, petitioner filed a notice of appeal to the Court of Appeals for the Ninth Circuit.

On January 11, 2007, the district court ordered petitioner to submit an application to proceed in forma pauperis or pay the \$455.00 filing fee for the appeal. On January 22, 2007, petitioner submitted a letter to the court, providing evidence that the court of appeals granted him leave to proceed in forma pauperis on appeal. Petitioner is correct. A review of the Ninth Circuit's docket shows that on February 27, 2007, the court of appeals granted petitioner's motion to proceed in forma pauperis. For this reason, the district court shall vacate its order requiring petitioner to file an application or pay the filing fee for the appeal.

Accordingly, IT IS HEREBY ORDERED that :

1. The district court acknowledges that petitioner has been granted leave to proceed in

forma pauperis on appeal;

2. The district court's order of January 11, 2007, which ordered petitioner to submit an application to proceed in forma pauperis or pay the \$455.00 filing fee for his appeal, is VACATED in its entirety; and

3. The Clerk is directed to serve a copy of this order on the Court of Appeals for the Ninth Circuit.

IT IS SO ORDERED.

Dated: March 5, 2007

/s/ **Dennis L. Beck**
UNITED STATES MAGISTRATE JUDGE